



June 6, 1995

Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20036

SUBJECT: PREEMPTION OF LOCAL GOVERNMENTS FROM  
ENFORCING ZONING FOR MOBILE COMMUNICATION  
FACILITIES, RULE MAKING #8577

Dear Commissioners:

This letter is in response to the proposal to preempt local jurisdictions from enforcing zoning or other similar regulations with respect to locating and constructing new towers for wireless communication facilities as discussed in the February 24, 1995, Notice from the California Public Utilities Commission (see attached).

The City of Lake Forest, California is opposed to any legislation that would preempt our local authority to regulate location and construction of towers and related communication facilities. The City of Lake Forest is an affluent, well educated residential community located along Interstate 5. The health, safety, welfare and overall quality of life for our residents depends on our ability to deal with all types of land use decisions at a local level. To preempt our ability to assess the environmental, health and aesthetic impacts associated with these communication facilities would deny the City and the citizens a choice for their future.

The City of Lake Forest has ordinances in place for the regulation of communication towers and facilities. Accordingly, operators within Lake Forest are required to address the health, safety, environmental and aesthetic issues unique to this use. Further, City Zoning includes sites throughout the

**Mayor**  
Richard T. Dixon

**Mayor Pro Tem**  
Helen Wilson

**Council Members**  
Peter Herzog  
Kathryn McCullough  
Ann Van Haun

**City Manager**  
Gaylord F. Knapp

**City Clerk**  
Jeri L. Stately

No. of Copies rec'd 0  
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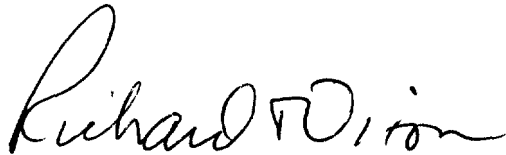
DRUG USE  
IS  
LIFE ABUSE

23778 Mercury Road  
Lake Forest, CA 92630  
(714) 707-5583  
FAX (714) 707-5723

community which will accommodate this type of use. The City has equitably regulated communication towers and facilities in the past and will continue to do so in the future. The successful process whereby the City has regulated these sites has not required any intervention from federal or state governments. For all these reasons, the City of Lake Forest is opposed to any legislation that would preempt our local regulations for communication towers and facilities for mobile service providers.

I hope that you will seriously consider the City's position prior to acting on this proposal. Please feel free to contact me in the event you would like to discuss the City's concerns.

Sincerely,  
CITY OF LAKE FOREST

A handwritten signature in cursive script, reading "Richard T. Dixon".

RICHARD T. DIXON  
Mayor

Attachment: P.U.C. Notice

cc: Congressman Christopher Cox  
Senator Barbara Boxer  
Senator Diane Feinstein  
Senator John R. Lewis  
Assemblyman Mickey Conroy  
City Council  
Planning Commission  
Murray L. Warden, City Manager  
Kathy L. Graham, J.D., AICP, Director of Community Development  
Gayle Ackerman AICP, Senior Planner  
Michael E. Balsamo, Planner

## PUBLIC UTILITIES COMMISSION

350 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

February 24, 1995

RECEIVED

JUN 21 1995

FEB 27 1995

## IMPORTANT NOTICE

**The Ultimate Jurisdiction for Planning/Land Use Decisions on  
Siting and Relocating Cellular and Other Wireless Communications  
Towers and Transmitters Could be Transferred to Washington - to the FCC**

We are notifying you about a proposal to *"preempt state and local governments from enforcing zoning and other similar regulations"* with respect to locating and constructing new towers for wireless communications facilities.

Currently, the California Public Utilities Commission (CPUC) issues authority for cellular utilities to construct, install and modify facilities, but only after ensuring that the cellular utilities have first obtained the necessary local permits or approvals - a way to assure that local community issues have been fully weighed. We try hard to get cellular utilities to abide by local community requirements. Recently, the CPUC settled an investigation of approximately 160 sites of Los Angeles Cellular Telephone Company (LACTC) for \$4.2 million. Additionally, LACTC settled an investigation into three sites for approximately \$725,000 for misrepresentation to the CPUC, premature construction, and permitting deficiencies. GTE Mobilenet was also recently fined \$343,000 for cellular siting violations.

However, an organization representing cellular utilities is petitioning the Federal Communications Commission (FCC) to preempt the CPUC and local government functions like your department's. Moving jurisdiction to Washington is not empowering the states, and it puts local community issues before decision makers located thousands of miles away. The assumption is that communities must routinely deny permits, but I know of no such instances. Local community land use considerations accommodate the placement of towers and transmitters, and wireless service has been extended to consumers. It is important for local communities to know about this if they are to have a voice in what happens. Enclosed are some details.

You should, if you've views to express, do several things, including:

1. Contact members of the California Congressional delegation;
2. Write to the FCC Commissioners [Commissioner Rachelle Chong is from the Stockton Area]; and
3. File a formal response or pleading with the FCC.

As you may know, the CPUC is holding informal workshops (next workshop in San Francisco on March 6, 1995) on whether the CPUC should basically "give back" its oversight so local communities and courts would have ultimate jurisdiction, and just as that dialog was starting (albeit without much participation by counties and cities), the cellular utilities initiated the proposal to sidestep local requirements and seek FCC preemption-- they seek to trade-off local community and state review for a scheme to give themselves maximum flexibility and move any challenges to a forum thousands of miles away.

For more details, call Mr. DeUlloa (415-703-1998) or Ms. Youngsmith (703-2088).

Sincerely,

Ira R. Alderson, Jr.

Attorney for the Commission's  
Safety and Enforcement Division

4-2-4

**SUMMARY REPRINT FROM**

**Cellular Telecommunications Industry Association's Petition for Rule Making**

In the Matter of )  
 )  
Amendment of the Commission's ) RM -8577  
Rules To Preempt State and Local )  
Commercial Mobile Services )  
Providers )

To: The Commission

**Cellular Telecommunications Industry Association's  
Petition for Rule Making**

The Cellular Telecommunications Industry Association ("CTIA"), pursuant to § 1.401 of the Commission's rules, hereby submits a Petition for Rule Making ("petition") requesting the Commission to issue a Notice of Proposed Rule Making proposing to exercise its authority under § 2(b) and § 332 of the Communications Act of 1934, as amended, ("Act"), to *preempt state and local governments from enforcing zoning and other similar regulations* which have the purpose or effect of barring or impeding commercial mobile radio service ("CMRS") providers from locating and constructing new towers.

To fully realize the increased opportunities for new output and increased consumer choice emanating from the historic auctioning of PCS spectrum, the Commission, consistent with congressional mandate and its own policies, must prohibit states from thwarting such developments. Preemption of CMRS tower site regulations is required to ensure the availability of an ubiquitous, competitive, efficient, federally-regulated mobile services infrastructure consistent with the public interest. In the absence of preemption, the Commission guarantees additional delay and added costs in the rollout of PCS and other mobile services as 38,000 different local jurisdictions limit, condition and otherwise interfere with the build out of CMRS facilities. (Cellular Telecommunications Industry Association's Petition for Rule Making, pp 1-2.) (emphasis added)

**YOU MAY WRITE the FCC Commissioners at:**  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20036  
(202) 418-0200

The five Commissioners are:  
Chairman Reed Hundt, Rachelle Chong, James Cuello, Susan Ness and Andrew Barrett

For information on how to file a formal reply contact the office of:  
William Canton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20036  
(202) 418-0300



# PUBLIC NOTICE

Federal Communications Commission  
1918 M Street, N.W.  
Washington, D.C. 20554

News media information: 202/632-6050. Recorded listing of releases and texts: 202/632-0002.

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*rule making # 8577*

REPORT NO. 2052

January 18, 1995

OFFICE OF PUBLIC AFFAIRS  
PUBLIC INFORMATION AND REFERENCE SERVICES  
PETITIONS FOR RULEMAKING FILED

(Interested persons may file statements opposing or supporting the Petitions for Rulemaking listed herein within 30 days. See Section 1.4 and 1.405 of the Commission's rules for further information).

<u>RM No.</u>	<u>Rules Sec.</u>	<u>Petitioner</u>	<u>Date Rec'd</u>	<u>Nature of Petition</u>
8577	333 and 2(b)	Cellular Telecommunica- tions Industry Associations  Michael F. Altschul, Vice President, General Counsel Randall S. Coleman, Vice President for Regulatory Policy and Law 1250 Connecticut Avenue N.W. Suite 200 Washington, D. C. 20036)	12-22-94	Request Amendment of Commission's Rules to Preempt State and Local Regulation of Tower Siting for Commercial Mobile Services and Providers.